

ESTTA Tracking number: **ESTTA163131**Filing date: **09/17/2007**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Jack Richeson & Co., Inc.		
Entity	Corporation	Citizenship	Wisconsin
Address	557 Marcella Street Kimberly, WI 54136 UNITED STATES		

Attorney information	Paul W. Kruse Bone McAllester Norton PLLC 511 Union Street Suite 1600 Nashville, TN 37219 UNITED STATES trademarks@bonelaw.com Phone:615-238-6304
----------------------	--

Registration Subject to Cancellation

Registration No	2619642	Registration date	09/17/2002
Registrant	Select Export Corp. 7395 Pioneer Road West Palm Beach, FL 33413 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 1988/03/01 First Use In Commerce: 1988/03/01

All goods and services in the class are cancelled, namely: surveying, measuring, and teaching apparatus and instruments, namely, surveying chains, surveyor's levels, tripod for topography, telescoping leveling rods, folding wooden rods, range poles, adjustable arm protractor, protractors, computer workstation comprising a computer printer and accessories, computer stands specifically designed for holding computer equipment, machinist scales, proportion calculator, computer for air navigation, triangular scales, circular slide rule, pocket scales, graduated parallel ruler for marine charts, graduated wooden rulers, graduated professional ruler, graduated acrylic rulers, air navigation slide ruler, plotting rule for navigation, metric slide ruler for conversion, tolerance table ruler, angle iron level, metal professional pantograph, surveyor's levels, bevels, measuring spoons and cups; data processors; and computers

Class 016. First Use: 1988/03/01 First Use In Commerce: 1988/03/01

All goods and services in the class are cancelled, namely: artists' materials, namely, artists' brushes, artists' pastels, artists' pencils, artists' pens, canvas panels for artists, electrical wood burning artists' pens, metals in foil and powder form for painters, decorators, and artists, painting sets for artists, art prints, art etchings, art mounts, art pads, art paper, art pictures, arts and craft paint kits, easel pads, easels, wooden easels, aluminum easels, drafting compasses, drafting curves, drafting instruments, drafting rulers, drafting squares, drafting templates, drafting trays, drafting triangles, drawing boards, drawing brushes, drawing compasses, drawing curves, drawing instruments, drawing pads, drawing paper, drawing pencils, drawing rulers, drawing shields, drawing squares, drawing templates, drawing trays, drawing triangles, paint brushes, painting palettes, painting sets, painting sets for children, paintings, paints for arts and crafts, pens, technical pens and pencils, French curves,

highway curves, adjustable triangles, naval curves, templates for business forms and graphic art, T squares, parallel straightedge, chalk boards, white boards, drawing flexible curve ruler, drawing quick parallel glider, drawing stumps, portable sketch boards, stretched and mounted canvas, compasses, printed instructional and teaching materials in the line of fine art painting

Class 020. First Use: 1988/03/01 First Use In Commerce: 1988/03/01

All goods and services in the class are cancelled, namely: wooden taboret for architectural drawings plans and maps, furniture, auxiliary cart for art supplies, metal display rolling stands for architectural drawings plans and maps, steel drafting tables, wooden drafting tables, wooden stools, wooden tops and melamine tops for use on top of drafting tables

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	00229248.pdf (8 pages)(57175 bytes)
-------------	--

Signature	/Paul W. Kruse/
Name	Paul W. Kruse
Date	09/17/2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Jack Richeson & Co., Inc.,)	
)	
Petitioner,)	
)	Cancellation No. _____
v.)	
)	Reg. No. 2,619,642
Select Export Corp. dba Trident,)	
)	
Registrant.)	
)	
Attorney Ref. No. 002763-060801)	

PETITION TO CANCEL

Box TTAB FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Sir:

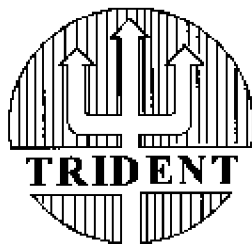
Jack Richeson & Co., Inc. (hereinafter Petitioner) is or will be damaged by the continued registration of the mark TRIDENT & Design, which is set forth in Reg. No. 2,619,642 and owned by Select Export Corp. dba Trident (hereinafter Registrant), and hereby requests the cancellation of the same.

As grounds for cancellation, Petitioner, by its attorneys, avers as follows:

1. Petitioner is engaged directly and through Petitioner's predecessor-in-interest has for many years been engaged in the manufacture, distribution and sale of artists' materials, tools and supplies used in drawing, drafting and surveying in commerce under the following mark:



2. On June 28, 2000, Registrant filed application Ser. No. 76/078,278 based on its alleged use of the following mark:



in commerce since at least as early as March 1, 1988. This application matured into Reg. No. 2,619,642 on September 17, 2002, and is the subject of this petition. Information about this registration is submitted herewith.

3. On information and belief, Registrant is a Florida corporation with a principal place of business at 7395 Pioneer Road, West Palm Beach, Florida 33413

4. During the pendency of application Ser. No. 76/078,278, Registrant swore in a declaration under 37 C.F.R. Section 2.20 that the mark set forth in Reg. No. 2,619,642 had been in use in commerce since at least as early as March 1, 1988, on or in connection with:

Surveying chains, surveyor's levels, tripod for topography, telescoping leveling rods, folding wooden rods, range poles, adjustable arm protractor, protractors, computer workstation comprising a computer printer and accessories, machinist scales, proportion calculator, computer for air navigation, circular slide rule, pocket scales, graduated parallel ruler for marine charts, graduated wooden rulers, graduated professional ruler, air navigation slide ruler, plotting rule for navigation, metric slide ruler for conversion, tolerance table ruler, angle iron level, metal

professional pantograph, surveyor's levels, bevels, measuring spoons and cups; data processors; and computers in International Class No. 9;

Artist's brushes, artists' pastels, artist's pencils, artist's pens, canvas panels for artists, electrical wood burning artist's pens, metals in foil and powder for painters, decorators, and artists, painting sets for artists, art prints, art etchings, art mounts, art pads, art paper, art pictures, arts and craft paint kits, easels pads, aluminum easels, drafting curves, drafting squares, drafting templates, drafting trays, drawing brushes, drawing curves, drawing templates, drawing trays, drawing triangles, paint brushes, painting sets, French curves, highway curves, naval curves, templates for business forms and graphic art, parallel straightedge, chalk boards, white boards, drawing quick parallel glider, drawing stumps, portable sketch boards, stretched and mounted canvas, printed instructional and teaching materials in the line of fine art painting in International Class No. 16; and

Metal display rolling stands for architectural drawing plans and maps in International Class No. 20.

5. On information and belief, Registrant is not using, and has never used, the mark set forth in Reg. No. 2,619,642 in commerce on or in connection with the goods set forth in paragraph 4 of this petition. Consequently, when Registrant swore in a declaration under 37 C.F.R. Section 2.20 that the mark set forth in Reg. No. 2,619,642 had been in use in commerce on or in connection with the goods set forth in paragraph 4 of this petition since at least as early as March 1, 1988, such information was false.

6. On information and belief, Registrant misrepresented the nature of its use of the mark set forth in Reg. No. 2,619,642 at the time it submitted application Ser. No. 76/078,278 and continued to misrepresent the nature of its use of the mark set forth in Reg. No. 2,619,642 throughout the prosecution of application Ser. No. 76/078,278. On information and belief, Registrant procured Reg. No. 2,619,642 by false means and/or by knowing and willfully making false and/or fraudulent declarations or representations, including falsely alleging under 37 C.F.R.

Section 2.20 that the mark set forth in Reg. No. 2,619,642 had been in use in commerce since at least as early as March 1, 1988 on or in connection with the goods set forth in paragraph 4 of this petition when, on information and belief, Registrant did not then and still does not use the mark set forth in Reg. No. 2,619,642 on or in connection with the goods set forth in paragraph 4 of this petition. On information and belief, said false statements were made with the intent to induce authorized agents of the United States Patent and Trademark Office to issue Reg. No. 2,619,642, and reasonably relying upon the truth of said false statements, the United States Patent and Trademark Office did, in fact, issue Reg. No. 2,619,642.

7. On information and belief, Registrant knew at the time it was made that its statement regarding its use of the goods set forth in paragraph 4 of this petition made during the prosecution of application Ser. No. 76/078,278 was false.

8. On information and belief, Registrant was asked during the prosecution of application Ser. No. 76/078,278 if it was the true owner of the mark set forth in Reg. No. 2,619,642.

9. On information and belief, Registrant represented to the United States Patent and Trademark Office that it was. However, Registrant was in fact only a distributor of Petitioner's predecessor-in-interest and neither a company related to Petitioner's predecessor-in-interest or owner of the mark set forth in Reg. No. 2,619,642. Moreover, Petitioner's predecessor-in-interest never consented to Registrant's registration of the mark set forth in Reg. No. 2,619,642.

10. On information and belief, Registrant misrepresented the nature of its ownership of the mark set forth in Reg. No. 2,619,642 at the time it submitted application Ser. No. 76/078,278 and continued to misrepresent the nature of its ownership of the mark set forth in Reg. No. 2,619,642 throughout the prosecution of application Ser. No. 76/078,278. On

information and belief, Registrant procured Reg. No. 2,619,642 by false means and/or by knowing and willfully making false and/or fraudulent declarations or representations, including falsely alleging under 37 C.F.R. Section 2.20 that it owned the mark set forth in Reg. No. 2,619,642 when, on information and belief, Registrant did not then and still does not own the mark set forth in Reg. No. 2,619,642. On information and belief, said false statements were made with the intent to induce authorized agents of the United States Patent and Trademark Office to issue Reg. No. 2,619,642, and reasonably relying upon the truth of said false statements, the United States Patent and Trademark Office did, in fact, issue Reg. No. 2,619,642.

11. On information and belief, Registrant knew at the time it was made that its statement regarding its ownership of the mark set forth in Reg. No. 2,619,642 made during the prosecution of application Ser. No. 76/078,278 was false.

12. On information and belief, Registrant, through intentional nonuse, has abandoned the mark set forth in Reg. No. 2,619,642.

13. Any goodwill that may have been associated with the mark set forth in Reg. No. 2,619,642 has been destroyed by Registrant's intentional abandonment and nonuse of the mark in commerce.

14. In view of the above allegations, Registrant is not entitled to continue registration of the mark set forth in Reg. No. 2,619,642 since Registrant, upon information and belief, committed fraud in the procurement of Reg. No. 2,619,642.

WHEREFORE, Petitioner respectfully requests that Reg. No. 2,619,642 be cancelled.

Please direct all communications to the undersigned at (615) 238-6300 or trademarks@bonelaw.com.

Jack Richeson & Co., Inc.

By: _____

Name: Paul W. Kruse

Title: Attorney

Date: September 17, 2007

Submitted by:

Bone McAllester Norton PLLC
511 Union Street
Suite 1600
Nashville, Tennessee 37219

Int. Cls.: 9, 16 and 20

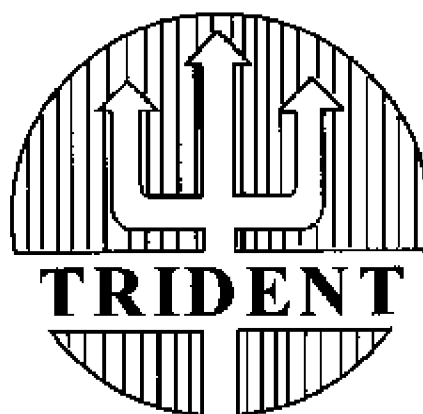
Prior U.S. Cls.: 2, 5, 13, 21, 22, 23, 25, 26, 29, 32, 36,
37, 38 and 50

Reg. No. 2,619,642

United States Patent and Trademark Office

Registered Sep. 17, 2002

TRADEMARK
PRINCIPAL REGISTER



SELECT EXPORT CORP. (FLORIDA CORPORATION), DBA TRIDENT

7395 PIONEER ROAD

WEST PALM BEACH, FL 33411

FIRST USE 3-1-1988; IN COMMERCE 2-1-1988.

FOR: SURVEYING, MEASURING, AND TEACHING APPARATUS AND INSTRUMENTS, NAMELY, SURVEYING CHAINS, SURVEYOR'S LEVELS, TRIPOD FOR TOPOGRAPHY, TELESCOPING LEVELING RODS, FOLDING WOODEN RODS, RANGE POLES, ADJUSTABLE ARM PROTRACTOR, PROTRACTORS, COMPUTER WORKSTATION COMPRISING A COMPUTER PRINTER AND ACCESSORIES, COMPUTER STANDS SPECIFICALLY DESIGNED FOR HOLDING COMPUTER EQUIPMENT, MACHINIST SCALES, PROPORTION CALCULATOR, COMPUTER FOR AIR NAVIGATION, TRIANGULAR SCALES, CIRCULAR SLIDE RULE, POCKET SCALES, GRADUATED PARALLEL RULER FOR MARINE CHARTS, GRADUATED WOODEN RULERS, GRADUATED PROFESSIONAL RULER, GRADUATED ACRYLIC RULERS, AIR NAVIGATION SLIDE RULER, PLOTTING RULER FOR NAVIGATION, METRIC SLIDE RULER FOR CONVERSION, TOLERANCE TABLE RULER, ANGLE IRON LEVEL, METAL PROFESSIONAL PANTOGRAPH, SURVEYOR'S LEVELS, BEVELS, MEASURING SPOONS AND CUPS; DATA PROCESSORS; AND COMPUTERS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FOR: ARTISTS' MATERIALS, NAMELY, ARTISTS' BRUSHES, ARTISTS' PASTELS, ARTISTS' PENCILS, ARTISTS' PENS, CANVAS PANELS FOR ARTISTS, ELECTRICAL WOOD BURNING ARTISTS' PENS, METALS IN FOIL AND POWDER FORM FOR PAINTERS, DECORATORS, AND ARTISTS, PAINTING SETS FOR ARTISTS, ART PRINTS, ART ETCHINGS, ART MOUNTS, ART PADS, ART PAPER, ART PICTURES, ARTS AND CRAFT PAINT KITS, EASEL PADS, EASELS, WOODEN EASELS, ALUMINUM EASELS, DRAFTING COMPASSES, DRAFTING CURVES, DRAFTING INSTRUMENTS, DRAFTING RULERS, DRAFTING SQUARES, DRAFTING TEMPLATES, DRAFTING TRAYS, DRAFTING TRIANGLES, DRAWING BOARDS, DRAWING BRUSHES, DRAWING COMPASSES, DRAWING CURVES, DRAWING INSTRUMENTS, DRAWING PADS, DRAWING PAPER, DRAWING PENCILS, DRAWING RULERS, DRAWING SHIELDS, DRAWING SQUARES, DRAWING TEMPLATES, DRAWING TRAYS, DRAWING TRIANGLES, PAINT BRUSHES, PAINTING PALETTES, PAINTING SETS, PAINTING SETS FOR CHILDREN, PAINTINGS, PAINTS FOR ARTS AND CRAFTS, PENS, TECHNICAL PENS AND PENCILS, FRENCH CURVES, HIGHWAY CURVES, ADJUSTABLE TRIANGLES, NAVAL CURVES, TEMPLATES FOR BUSINESS FORMS AND GRAPHIC ART, T SQUARES, PARALLEL STRAIGHTEDGE, CHALK

BOARDS, WHITE BOARDS, DRAWING FLEXIBLE CURVE RULER, DRAWING QUICK PARALLEL GLIDER, DRAWING STUMPS, PORTABLE SKETCH BOARDS, STRETCHED AND MOUNTED CANVAS, COMPASSES, PRINTED INSTRUCTIONAL AND TEACHING MATERIALS IN THE LINE OF FINE ART PAINTING, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 3-1-1988; IN COMMERCE 3-1-1988.

FOR: WOODEN TABORET FOR ARCHITECTURAL DRAWINGS PLANS AND MAPS, FURNITURE, AUXILIARY CART FOR ART SUPPLIES, METAL DISPLAY ROLLING STANDS FOR ARCHITECTUR-

AL DRAWINGS PLANS AND MAPS, STEEL DRAFTING TABLES, WOODEN DRAFTING TABLES, WOODEN STOOLS, WOODEN TOPS AND MELAMINE TOPS FOR USE ON TOP OF DRAFTING TABLES, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 3-1-1988; IN COMMERCE 3-1-1988.

THE MARK IS LINED FOR THE COLOR RED.

SER. NO. 76-078,278, FILED 6-28-2000.

SOPHIA S. KIM, EXAMINING ATTORNEY